

most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

On April 7, 1994, the Commission approved an amendment to rule G-19, on suitability, designed to strengthen the rule.<sup>1</sup> As part of that amendment, the language of section (c) regarding suitability of recommendations was amended to ensure that in making a recommendation to customers, dealers must have reasonable grounds, based upon information about the security as well as the customer, for believing that the recommendation is suitable.

Section (d) of rule G-19 requires dealers effecting transactions for discretionary accounts to have prior written authorization and to make a suitability determination regarding the transaction, unless the transaction is specifically directed by the customer. A review of rule G-19 has indicated that a technical amendment to section (d) is necessary to correct a cross reference to the new language of section (c). The proposed rule change also clarifies the language of section (d) to ensure that dealers understand their duty to make a suitability determination before executing a transaction for a discretionary account unless the transaction is specifically directed by the customer without any recommendation having been made.

The Board believes the proposed rule change is consistent with section 15(b)(2)(C) of the Act which provides that the Board's rules:

Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, foster cooperation with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The proposed rule clarifies the responsibility of dealers to make suitability determinations before executing transactions for discretionary accounts and therefore the Board believes it will protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Board does not believe that the proposed rule change will impose any

burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Board has neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five days prior to the filing date; and (4) does not become operative for thirty days from the date of its filing on June 2, 1995, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder. In particular, the Commission believes the proposal would qualify as a "non-controversial filing" because it makes technical and clarifying changes to an existing MSRB rule. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No.

SR-MSRB-95-9 and should be submitted by July 11, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>2</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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[Release No. 34-35848; File No. SR-MSRB-95-7]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Fees for Backlog Document Collections of its Official Statement/Advance Refunding Document Subsystem of the Municipal Securities Information Library**

June 14, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 24, 1995, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-95-7). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The MSRB is filing herewith a proposed rule change to establish a price of \$7,000 (plus delivery or postage charges) for its 1994 document collection relating to its Official Statement/Advance Refunding Document ("OS/ARD") subsystem of the Municipal Securities Information Library ("MSIL") system (the "1994 backlog fee").<sup>1</sup> The collection consists of imaged documents on magnetic tapes. The proposed 1994 backlog fees are structured to defray the Board's dissemination costs. This fee structure is consistent with the Board's MSIL fee policy, which is that the Board does not expect or intend to make a profit from the MSIL system, and reviews the MSIL

<sup>2</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> Municipal Securities Information Library and MSIL are trademarks of the Board. The MSIL system, which was approved in Securities Exchange Act Release No. 29298 (June 13, 1991) 56 FR 28194, is a central facility through which information about municipal securities is collected, stored and disseminated.

<sup>1</sup> See Securities Exchange Act Release No. 33869 (April 7, 1994) 59 FR 17632.

system fees annually to ensure that dissemination costs are paid for from user fees.

## II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The OS/ARD subsystem, which was activated on April 20, 1992, is a central electronic facility through which information collected and stored, pursuant to MSRB rule G-36, is made available electronically and in paper form to market participants and information vendors.<sup>2</sup> The annual subscription fee for daily tapes of images of current year documents from the OS/ARD system is \$12,000.<sup>3</sup> The fees for backlog document collections are substantially less than fees for an annual subscription because an annual subscription requires the Board to send a computer tape to the subscriber each business day, but a backlog collection requires fewer tapes.<sup>4</sup>

In its prior filings with the Commission, the Board stated that it intends to use its general revenues for collection, indexing and storing the OS/ARD subsystem's documents, and that the costs of producing and disseminating magnetic tapes (and paper copies) would be paid for by user

fees.<sup>5</sup> Thus, the Board is establishing fees to defray its cost of disseminating backlog tapes. This is consistent with the Commission's policy that self-regulatory organizations' fees be based on expenses incurred in providing information to the public. The Board believes that employing cost-based prices is in the public interest since it will ensure that a complete collection of vital information will be available, at fair and reasonable prices, for the life of the municipal securities.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which requires, in pertinent part, that the Board's rules:

Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSIL system is designed to increase the integrity and efficiency of the municipal securities market by, among other things, helping to ensure that the price charged for an issue in the secondary market reflects all available official information about that issue. The Board believes that the 1994 backlog fee is fair and reasonable in light of the costs associated with disseminating the information, and that the services provided by the MSIL system are available on reasonable and nondiscriminatory terms to any interested person.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e) thereunder because the proposal is "establishing or

changing a due, fee or other charge." At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR-MSRB-95-7 and should be submitted by [insert date 21 days from the date of publication].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-35849; File No. SR-MSRB-95-8]

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Delivery of Official Statements to the Board

June 14, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, notice is hereby given that on June 1, 1995, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the

<sup>2</sup> Rule G-36 requires underwriters to provide copies of final official statements and advance refunding documents within certain specified time frames for most new issues issued since January 1, 1990.

<sup>3</sup> This fee was filed with the Commission. See Securities Exchange Act Release No. 30306 (Jan. 30, 1992) 57 FR 4657. The Board does not intend at this time to change the OS/ARD annual subscription fee.

<sup>4</sup> Currently, two to three business day's worth of documents are on each tape in an annual collection. The backlog fee plus delivery costs for 1993 is \$9,000; 1992 is \$7,000; 1991 is \$8,000; 1990 is \$6,000. These fees were filed with the Commission. See Securities Exchange Act Release No. 32482 (June 16, 1993) 58 FR 34115 (1992 and 1990 fees); Securities Exchange Act Release No. 34602 (Aug. 25, 1994) 59 FR 45319 (1993 and 1991 fees). The fees for the backlog collections vary based on the number of documents received and processed in any given year.

<sup>5</sup> See Securities Exchange Act Release No. 29298 (June 13, 1991) 56 FR 28194.

<sup>6</sup> 17 CFR 200.30-3(a)(12)